

Message Text

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ACTION IO-13

INFO OCT-01 EUR-25 ADP-00 SS-14 PM-09 ACDA-19 CIAE-00

INR-09 L-03 NSAE-00 NSC-10 OST-04 RSC-01 SCI-06

GAC-01 DODE-00 PA-03 USIA-12 PRS-01 OMB-01 TRSE-00

EB-11 AF-10 ARA-11 EA-11 NEA-10 RSR-01 /186 W

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R 191443 Z MAR 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 2591

INFO AEC/ GERMANTOWN

AMEMBASSY BONN

USMISSION EC BRUSSELS

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 2183

EO: 11652: GDS

TAGS: PARM, IAEA, US, GW

SUBJ: NEGOTIATIONS OF US- IAEA SAFEGUARDS AGREEMENT-- FRG INTERESTS

REF: A. IAEA VIENNA 2104; B. TELCON WEBER/ LABOWITZ OF MAR3, 73

C. IAEA VIENNA 2051

SUMMARY: UNGERER (FRG) HAS IDENTIFIED SEVERAL CONCERNS RE PROVI-
SIONS U. S. DRAFT OF SUBJECT AGREEMENT (RE WHICH HE HAS OBTAINED
ONLY " MOSAIC" OF BITS OF INFORMATION, ACCORDING TO HIM). MISSION
BELIEVES THOSE CONCERNS ARE SHARED BY BONN AND ARE BEHIND FRG INTER-
ESTS IN EARLY CONSULTATIONS WITH U. S. PROPOSED LTR OF LOPEZ- MEN-
CHERO (REFTEL C) WILL GO LONG WAY TOWARD ANSWERING THOSE CONCERNS.
ACTION REQUESTED: AUTHORIZATION TO TRANSMIT LTR (REFTEL C) SOON-
EST, ALONG WITH AUTHORIZATION MAKE COPIES AVAILABLE FRG AND OTHER
INTERESTED MISSIONS.

1. UNGERER VIEWS RE IMPLEMENTATION SUBJECT AGREEMENT IN ACCORD IN-
SPECTION CONCEPT DEVELOPED DURING EURATOM- IAEA NEGOTIATIONS WERE
REPORTED REFTEL A. UNGERER HAS TOLD MISSION THIS IS MERELY SUGGES-
TION AND THAT NEITHER HE NOR BONN FEEL PARTICULARLY STRONGLY ABOUT
IT. NOTWITHSTANDING THAT DISCLAIMER, MISSION BELIEVES THAT IT RE-
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MAINS LONG- RANGE OBJECTIVE OF UNGERER, AND PERHAPS HIS GOVERNMENT.

2. MISSION RECALLS SUBSTANTIAL EFFORT IN EARLY 1971 BY FRG AND UNGERER, IN PARTICULAR, DURING SAFEGUARDS COMMITTEE'S WRESTLING WITH QUESTION OF SAFEGUARDS FINANCING, TO ESTABLISH " SPECIAL FUND," PAID FOR BY US, UK AND USSR FOR FINANCING AGENCY'S COSTS OF SAFEGUARDS IN US AND UK FACILITIES, PURSUANT TO RESPECTIVE OFFERS. IN FACT, THAT EFFORT WAS STOPPED ONLY IN RETURN FOR AFFIRMATION BY U. S. AND UK GENERAL AGREEMENT WITH PARAS 2 THRU 6 OF " TIMBS GROUP" PAPER OF FEB 5, 1971. (SEE VIENNA 0742, FEB 5, 1971, FOR FULL TEST.) PRESENT SCHEME OF EURATOM- TYPE IMPLEMENTATION OF US- IAEA AGREEMENT, WITH MINIMUM IAEA INSPECTION EFFORT (AND MAXIMUM U. S. EFFORT) WOULD ACCOMPLISH, IN MUCH MORE INSIDIOUS WAY, EARLIER FRG OBJECTIVE OF HAVING U. S. BEAR BULK OF COSTS ASSOCIATED WITH US- IAEA AGREEMENT. AT SAME TIME, NEW STAMP OF APPROVAL WOULD BE GAINED FOR INSPECTION ARRANGEMENTS NEGOTIATED BY EURATOM. IT WOULD PERMIT FRG AND OTHER EURATOM NNWS' S TO TAKE POSITION WITH THEIR DOMESTIC INDUSTRIES THAT U. S. INDUSTRY IN EXACTLY SAME SITUATION VIS A VIS IAEA. THIS WOULD, OF COURSE, RESULT IN LOSS OF OPPORTUNITY TO CLAIM THAT EURATOM RECEIVING SPECIAL UNIQUE TREATMENT.

3. MISSION SPECULATES THAT FINANCIAL IMPLICATIONS OF ADOPTION EURATOM- IAEA STYLE INSPECTION ARRANGEMENTS IN US- IAEA AGREEMENT SUBSIDIARY ARRANGEMENTS WILL PROMPT FRG TO BUILD UP PRESSURE ON U. S. TO GO THAT DIRECTION. MISSION CANNOT PERCEIVE WHY ANY OTHER MEMBER STATE WOULD RESIST JOINING IN SUCH CAMPAIGN, KEEPING IN MIND THAT UK WILL UNDOUBTEDLY, IN ONE WAY OR ANOTHER, HAVE EURATOM- IAEA STYLE INSPECTION ARRANGEMENT. IF CAMPAIGN SUCCEEDS, FRG COULD CLAIM CREDIT FOR REDUCING AGENCY'S SAFEGUARDS BUDGET, WHILE SOCKING IT TO U. S. THROUGH INCREASING U. S. NATIONAL SAFEGUARDS EFFORT.

4. IN ADDITION TO SUGGESTION RE INSPECTION ARRANGEMENTS, UNGERER DOCUMENT DISCUSSED REFTEL A QUESTIONED THREE ASPECTS OF U. S. DRAFT AGREEMENT SUBMITTED TO IAEA. TWO ASPECTS ARE CHARACTERIZED AS DIFFERING FROM FEB 5, 1971, TIMBS GROUP PAPER, REFERRED TO ABOVE. (UNGERER DOCUMENTS RECALLS AFFIRMATION BY US REP " UNDER INSTRUCTIONS FROM WASHINGTON" OF GENERAL AGREEMENT WITH PARAS 2 THRU 6.);

A. DOCUMENT NOTES OMISSION OF PROVISIONS RE INTERNATIONAL TRANSFERS.
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B. DOCUMENT REFERS TO PARA 4 OF TIMBS GROUP PAPER WHICH

STATES "... IT IS ENVISAGED THAT ALL OFFERED NUCLEAR ACTIVITIES OF THE NUCLEAR WEAPONS STATES CONCERNED WILL BE SUBJECT TO SAFEGUARDS IN CONFORMITY WITH THE RELEVANT REQUIREMENTS OF THE SAFEGUARDS AGREEMENT APPLICABLE TO A NON NUCLEAR WEAPON STATE, PARTY TO THE NPT." DOCUMENT ACCURATELY NOTES THAT " SAFEGUARDS UNDER THE (U. S. DRAFT US- IAEA) AGREEMENT SHALL APPLY NOT TO ALL CIVIL NUCLEAR ACTIVITIES (I. E. THOSE NUCLEAR ACTIVITIES WHICH HAVE NO DIRECT NATIONAL SECURITY SIGNIFICANCE) BUT ONLY TO NUCLEAR MATERIAL IN A RESTRICTED NUMBER OF FACILITIES AND OTHER LOCATIONS WHICH THE AGENCY HAS THE RIGHT TO SELECT FROM A LIST ... (WHICH THE ... UNITED STATES SHALL PROVIDE THE AGENCY...". COMMENT: KEY PHRASE OF PARA 4 OF TIMBS GROUP PAPER IS " SUBJECT TO SAFEGUARDS." WE HAVE EXPLAINED TO UNGERER THAT THIS PHRASE CAN ONLY BE INTERPRETED TO MEAN " LIABLE TO BE SAFEGUARDED" IN ORDER TO AVOID CONTRADICTION IN TERMS WITH PARA 6 OF THAT PAPER WHICH CALLS FOR " FULL INSPECTIONS" ONLY IN RESPECT OF FACILITIES OF ADVANCED DESIGN INCORPORATING NEW TECHNOLOGY OR THOSE WHICH ARE SENSITIVE IN TERMS OF INTERNATIONAL COMPETITION AND " RANDOM INSPECTION" OF ALL OTHER OFFERED NUCLEAR ACTIVITIES. WE HAVE TAKEN FIRM POSITION THAT TO SAY THAT FACILITY IS " SUBJECT TO SAFEGUARDS" (IN SENSE THAT SAFEGUARDS ARE IN FACT TO BE APPLIED) BUT THAT IAEA WILL NOT CARRY OUT FULL INSPECTION, IS INCONSISTENT.

5. FOREGOING SEMANTIC ISSUE IS ALSO REFLECTED IN FINAL POINT

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INFO OCT-01 EUR-25 ADP-00 SS-14 PM-09 ACDA-19 CIAE-00

INR-09 L-03 NSAE-00 NSC-10 OST-04 RSC-01 SCI-06

GAC-01 DODE-00 PA-03 USIA-12 PRS-01 OMB-01 TRSE-00

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C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 2183

IN UNGERER DOCUMENT WHICH REFERS TO IMPORTANCE THAT TEXT OF US-IAEA AGREEMENT SHOULD " MAKE IT EVIDENT" THAT ALL OFFERED U. S. ACTIVITIES " ARE SUBJECT TO SAME SAFEGUARDS REGIME AS NUCLEAR ACTIVITIES IN (NON- NUCLEAR WEAPON) COUNTRIES PARTY TO NPT." DOCUMENT ELSEWHERE MAKES CLEAR THAT IN UNGERER' S VIEW THIS WOULD INCLUDE PROVISION TO AGENCY OF DESIGN INFORMATION IN RESPECT OF ALL FACILITIES WHICH DO NOT HAVE DIRECT NATIONAL SECURITY SIGNIFICANCE, KEEPING OF RECORDS IN ACCORD PARAS 51 TO 58 OF INFCIRC/153 AND PROVISION OF REPORTS PURSUANT TO PARAS 59 TO 69 OF INFCIRC/153. " THE ONLY POINT REGARDING WHICH A CERTAIN DEVIATION FROM INFCIRC/153 WAS ADMITTED WAS THE INSPECTION EFFORT..." THUS, UNGERER DOCUMENT CONCLUDES, " IF FOR FINANCIAL REASONS EXCEPTIONS WITH RESPECT TO INSPECTIONS ARE MADE, RELEVANT PROVISIONS SHOULD BE RATHER INCLUDED IN A PROTOCOL ANNEXED TO THE AGREEMENT THAT IN THE AGREEMENT ITSELF."

6. WE HAVE POINTED OUT TO UNGERER THAT SAME END RESULT COULD BE ACHIEVED BY PRESENT U. S. APPROACH WHICH HAS ADDITIONAL ESSENTIAL ADVANTAGE, IN OUR VIEW, OF AVOIDING ESTABLISHING PRECEDENT OF HAVING AGENCY " SAFEGUARD" ACTIVITIES WITHOUT HAVING RIGHT TO CARRY OUT ROUTINE INSPECTIONS. WE HAVE ALSO NOTED THAT " RANDOM INSPECTION" CONCEPT IN PARA 6(B) OF TIMBS GROUP PAPER IS PRO-CONFIDENTIAL

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VIDED FOR IN PRESENT U. S. APPROACH BY UNRESTRICTED RIGHT BY AGENCY TO MAKE SELECTIONS FROM ELIGIBLE LIST AS FREQUENTLY AS DESIRED AND TO RETAIN FACILITY IN SUBSIDIARY ARRANGEMENTS FOR AS SHORT A PERIOD AS DESIRED-- EVEN FOR ONLY ONE INSPECTION.

7. IN LIGHT OF FOREGOING AND REFTEL A, MISSION BELIEVES THAT FRG INTEREST IN EARLY CONSULTATIONS, BEFORE TEXT OF AGREEMENT FULLY NEGOTIATED, IS PROBABLY RELATED TO POINTS IDENTIFIED IN PARAS 4 AND 5 ABOVE, AND THAT WHILE THEY MIGHT MENTION EURATOM-IAEA TYPE OF INSPECTION ARRANGEMENTS DURING SUCH CONSULTATIONS, REAL PUSH IN THAT DIRECTION WILL BE MADE LATER, WITH SUPPORT OTHER MEMBER STATES.

8. PROPOSED LETTER TO LOPEZ- MENCHERO, REFTEL C, WOULD GO LONG WAY TO ANSWER POINTS DISCUSSED PARA 4, IF COPIES COULD BE MADE AVAILABLE TO FRG, JAPAN, AND OTHER MISSIONS OF INTERESTED GOVERNMENTS. MISSION THEREFORE HOPES AUTHORIZATION TRANSMIT LTR TO LOPEZ- MENCHERO FORTHCOMING SOONEST AND WILL PERMIT MAKING COPIES AVAILABLE OTHER MISSIONS.

9. PRESENTATIONAL ISSUE DISCUSSED PARAS 6 AND 7 ABOVE WILL BE DISCUSSED FURTHER WITH UNGERER DURING COMING DAYS AND RESULTS WILL BE REPORTED. PORTER

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